

Decision 02-03-018 March 6, 2002

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Application of Pacific Gas and Electric Company
for Authority, Among Other Things, to Increase
Rates and Charges for Electric and Gas Service
Effective on January 1, 1999.

(U 39 M)

Application 97-12-020
(Filed December 12, 1997)

Investigation into the Reasonableness of
Expenses Related to the Out-Of-Service Status of
Pacific Gas and Electric Company's El Dorado
Hydroelectric Project and the Need to Reduce
Electric Rates Related To This Non-Functioning
Electric Generating Facility.

Investigation 97-11-026
(Filed November 19, 1997)

Application of Pacific Gas and Electric Company
for Authority, Among Other Things, to Decrease
its Rates and Charges for Electric and Gas
Service, and Increase Rates and Charges for
Pipeline Expansion Service.

Application 94-12-005
(Filed December 9, 1994)

Order Instituting Investigation Into Rates,
Charges, and Practices of Pacific Gas and Electric
Company.

Investigation 95-02-015
(Filed February 22, 1995)

OPINION ON REQUEST FOR INTERVENOR COMPENSATION

This decision grants James Weil (Weil) an award of \$2,300.81 for
substantial contributions to Decision (D.) 01-10-031 in this proceeding.

1. Background

This proceeding is the test year 1999 General Rate Case for Pacific Gas and Electric Company (PG&E). On February 17, 2000, the Commission approved D.00-02-046. The decision granted revenue increases of \$377 million for electric distribution service and \$92 million for gas distribution service.

On March 27, 2000, The Utility Reform Network (TURN) and Weil filed for rehearing of D.00-02-046. Weil alleged legal and factual errors concerning flood studies in Account 537, Federal Energy Regulatory Commission (FERC) license conditions in Account 539, PG&E's uncollectibles in Account 904, demonstration and selling expenses in Account 912, and attrition. In D.01-10-031, issued October 10, 2001, the Commission resolved all issues raised in the applications for rehearing. Weil's request for compensation for his contribution to that decision is unopposed.

2. Requirements for Awards of Compensation

Intervenors who seek compensation for their contributions in Commission proceedings must file requests for compensation pursuant to Pub. Util. Code §§ 1801-1812. Pub. Util. Code § 1804(a) requires an intervenor to file a Notice of Intent (NOI) within 30 days of the prehearing conference or by a date established by the Commission. Weil had filed a timely NOI in this proceeding. Other code sections address requests for compensation filed after a Commission decision is issued. Section 1804(c) requires an intervenor requesting compensation to provide "a detailed description of services and expenditures and a description of the customer's substantial contribution to the hearing or proceeding." Section 1802(h) states that "substantial contribution" means that,

"in the judgment of the commission, the customer's presentation has substantially assisted the Commission in the making of its order or decision because the order or decision

has adopted in whole or in part one or more factual contentions, legal contentions, or specific policy or procedural recommendations presented by the customer. Where the customer's participation has resulted in a substantial contribution, even if the decision adopts that customer's contention or recommendations only in part, the commission may award the customer compensation for all reasonable advocate's fees, reasonable expert fees, and other reasonable costs incurred by the customer in preparing or presenting that contention or recommendation."

Section 1804(e) requires the Commission to issue a decision that determines whether or not the customer has made a substantial contribution and the amount of compensation to be paid. The level of compensation must take into account the market rate paid to people with comparable training and experience who offer similar services, consistent with § 1806.

3. Contributions to Resolution of Issues

A party may make a substantial contribution to a decision in various ways. It may offer a factual or legal contention upon which the Commission relied in making a decision. It may advance a specific policy or procedural recommendation that the Commission adopted. A substantial contribution includes evidence or argument that supports part of the decision even if the Commission does not adopt a party's position in total.

In the application for rehearing, Weil recommended adoption of an uncollectibles factor of 0.00267 instead of the 0.00337 factor adopted in D.00-02-046. He prevailed on this issue, and the rehearing order revised the results of operations tables to reflect the lower uncollectibles factor. This reduced PG&E revenue requirements by approximately \$2,226,000.

Weil also alleged that the Commission's analysis of an attrition allowance was vague and ambiguous, and the rehearing order modified that analysis and

reversed the earlier decision as to forecasted activity levels, labor cost escalations and capital investment forecasts.

Weil's other contentions were for the most part rejected in the rehearing order. On the issue of FERC relicensing, Weil has reduced his requested compensation by half to acknowledge that his position was not adopted, although the Commission did make changes in its discussion of the issue.

The benefits of Weil's participation in this proceeding include the \$2.2 million reduction in revenue requirements, along with intangible benefits associated with clarifying language suggested or prompted by Weil. The value of these benefits exceeds the amount of compensation that Weil seeks. We therefore find that Weil has demonstrated that he made a substantial contribution to D.01-10-031. We find also that Weil represented customer interests that would otherwise be under-represented in this proceeding.

4. The Reasonableness of Requested Compensation

Weil requests compensation in the amount of \$2,300.81. Documentation attached to the request shows the following compilations:

Weil:

6.7 professional hours @ \$220	\$1,474.00
6.0 compensation hours @ \$110	660.00

Other:

Copies	\$104.07
Postage	62.74

Total	<u>\$2,300.81</u>
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4.1 Hours Claimed

Weil has maintained detailed records of time spent on the proceeding. Spreadsheet summaries of 2000 and 2001 hours and direct expenses are set forth

in an attachment to the compensation request. Weil's time is separated into professional hours and travel and compensation request hours, as shown on the spreadsheets. Weil also appropriately breaks down time spent on various issues and activities. We find that the request for compensation for time spent on these matters is reasonable.

4.2 Hourly Rates

Section 1806 requires the Commission to compensate eligible parties at a rate that reflects the "market rate paid to persons of comparable training and experience who offer similar services." (Pub. Util. Code § 1806.) Weil requests Commission approval of (1) an hourly rate of \$220 for professional work performed in 2000 and 2001, and (2) one half of that rate for travel time and for preparation of this compensation request. The Commission has previously awarded Weil compensation at a professional rate of \$220 per hour and a travel and compensation rate of \$110 per hour for work in 2000 and 2001. (*See, e.g.*, D.01-11-054; D.01-11-047; D.01-11-023; and D.01-10-024.) We will use these rates here.

4.3 Other Costs

Weil claims \$167.81 for costs relating to photocopying and postage, a reasonable sum that we approve.

5. Award

We award Weil \$2,300.81 for contributions to D.01-10-031. Consistent with previous Commission decisions, we will order that interest be paid on the award amount (calculated at the three-month commercial paper rate), commencing the 75th day after Weil filed this compensation request (March 4, 2002) and continuing until the utility makes full payment.

6. Waiver of Comment Period

This is a compensation decision pursuant to Pub. Util. Code § 1801. Accordingly, pursuant to Pub. Util. Code § 311(g)(3) and Rule 77.7(f)(6) of the Commission's Rules of Practice and Procedure, the otherwise applicable 30-day review and comment period is being waived.

Findings of Fact

1. Weil timely requested compensation for contributions to D.01-10-031 as set forth herein.
2. Weil requests hourly rates for professional work that have already been approved by the Commission for the years 2000 and 2001.
3. The miscellaneous costs incurred by Weil in this proceeding are reasonable.

Conclusions of Law

1. Weil has fulfilled the requirements of Pub. Util. Code §§ 1801-1812, which govern awards of intervenor compensation.
2. Weil should be awarded \$2,300.81 for contributions to D.01-10-031 in this proceeding, effective immediately.

O R D E R

IT IS ORDERED that:

1. James Weil is awarded \$2,300.81 as set forth herein for substantial contributions to Decision 01-10-031.

2. Pacific Gas and Electric Company shall, within 30 days of this order, pay James Weil \$2,300.81 plus interest at the rate earned on prime, three-month commercial paper as reported in the Federal Reserve Statistical Release, G.13, with interest beginning March 4, 2002, and continuing until full payment has been made.

3. These proceedings are closed.

This order is effective today.

Dated March 6, 2002, at San Francisco, California.

LORETTA M. LYNCH

President

HENRY M. DUQUE

RICHARD A. BILAS

CARL W. WOOD

GEOFFREY F. BROWN

Commissioners